

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE:

Case No. 19-22111-TPA

Kenneth R. Weber
aka Ken Weber, aka Kenneth Weber

Chapter: 13

Debtor

Nicholas Bandola,

Movant,

v.

KENNETH WEBER,

Hearing Date: October 14, 2020

Hearing Time: 9:30 a.m.

Respondent.

Response Date: September 14, 2020

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

Movant, Nicholas Bandola, by and through his attorneys, G. Christopher Apessos, Esquire and Friday & Cox, LLC, files the following Motion for Relief from the Automatic Stay:

1. Movant, Nicholas Bandola, is an adult individual residing in Allegheny County, Pennsylvania.
2. On or about December 16, 2016, Respondent, Kenneth R. Weber, (Debtor) while operating a motor vehicle, struck Movant, a pedestrian at the time, causing Movant severe injuries.
3. On November 27, 2018, Movant commenced an action in the Court of Common Pleas of Allegheny County, Pennsylvania at Docket No. GD 18—015538.
4. Respondent, Kenneth R. Weber, (Debtor) filed a Voluntary Petition in the United States Bankruptcy Court for the Western District of Pennsylvania for relief under Chapter 13 of Title 11 of the United States Code, docketed at 19-22111-TPA, on May 26, 2019.

5. Movant seeks relief from the automatic stay to continue to pursue the action against Debtor and his insurer, MetLife Auto & Home, claim number SLF94429, and recover any proceeds available under any insurance policy owned by the Debtor.

6. At this time, Debtor's limits of liability coverage are unknown to the movant, therefore he does not know whether there is sufficient coverage for Movant's claimed damages; however, Movant will NOT be pursuing any assets from the bankruptcy estate and will pursue only available insurance proceeds through MetLife's policy of insurance, or potentially an action against MetLife grounded in bad faith, breach of contract, or the like, upon assignment of rights from respondent as well as any applicable and available underinsured/uninsured motorist (UIM/UM) policies.

7. Movant wishes to proceed solely against the Debtor's insurance coverage and insurance proceeds currently with unknown liability limits as well as any applicable and available UIM/UM policies and shall not pursue any funds of Debtor beyond the applicable and available insurance coverage.

WHEREFORE, Movant respectfully requests that this Honorable Court grant relief from the automatic stay so that movant may proceed with his claims against the debtor, Kenneth R. Weber, in the Court of Common Pleas of Allegheny County, Pennsylvania, and satisfy such claims from applicable and available insurance coverage and policies.

Respectfully submitted,

By: /s/ Peter D. Friday
Peter D. Friday, Esquire
G. Christopher Apessos, Esquire
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ORDER OF COURT

AND NOW, this _____ day of _____, 2020, upon consideration of the Motion for Relief from the Automatic Stay, it is hereby **ORDERED** that the Motion is **GRANTED**.

Movant, Nicholas Bandola, may proceed with the litigation commenced in the Court of Common Pleas of Allegheny County Pennsylvania at Docket No. GD 18-015538 and any recovery therefrom shall be limited to the insurance coverage and insurance proceeds applicable and available.

BY THE COURT:

J. Thomas P. Agresti

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**NOTICE OF HEARING AND RESPONSE DEADLINE REGARDING MOTION FOR
RELIEF FROM THE AUTOMATIC STAY**

TO THE RESPONDENT:

You are hereby notified that the Movant seeks an order affecting your rights or property.

You are further instructed to file with the Clerk and serve upon the undersigned attorney for Movant a response to the Motion by no later than **September 14, 2020**, (i.e., seventeen (17) days after the date of service below), in accordance with the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court, and the general procedures of the presiding judge as found on the Court's webpage at www.pawb.uscourts.gov. If you fail to timely file and serve a written response, an order granting the relief requested in the Motion may be entered and the hearing may not be held. Please refer to the calendar posted on the Court's webpage to verify if a default order was signed or if the hearing will go forward as scheduled.

You should take this Notice and the Motion to a lawyer at once.

A hearing will be held on **October 14, 2020, at 9:30 a.m.** before Judge Thomas P. Agresti via Zoom Video Conference accessed by the following link: <https://www.zoomgov.com/j/16021303488>, or alternatively by using the following **Meeting ID: 160 2130 3488**. To join the Zoom hearing please initiate and use the link 15 minutes prior to your scheduled hearing time. *All attorneys and Parties may only appear via the Zoom Video Conference Application and must comply with the Amended Notice of Temporary Modification of Appearance of Procedures Before Judge Thomas P. Agresti, as updated on June 10, 2020.* Only a limited time of ten (10) minutes is being provided on the calendar. No witnesses will be heard. If there is an issue of fact, an evidentiary hearing will be scheduled by the Court for a later date.

Date of Service: August 28, 2020

/s/ Peter D. Friday
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**CERTIFICATION OF NO OBJECTION REGARDING
MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

I, _____, hereby certify that, as of the date hereof, no answer, objection or other responsive pleading to the Motion for Relief from the Automatic Stay filed on August 28, 2020, has been received. The undersigned further certifies that the Court's docket in this case has been reviewed and no further answer, objection or other responsive pleading to the Motion for Relief from the Automatic Stay appears thereon. Pursuant to the Notice of Hearing, objections to the Motion for Relief from the Automatic Stay were to be filed and served no later than September 14, 2020.

It is hereby respectfully requested that the Order attached to the Motion for Relief from the Automatic Stay be entered by the Court.

Dated: August 28, 2020

/s/ Peter D. Friday, Esquire

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**CERTIFICATE OF SERVICE OF MOTION FOR RELIEF FROM THE AUTOMATIC
STAY, PROPOSED ORDER, AND NOTICE OF HEARING WITH RESPONSE
DEADLINE**

I, G. Christopher Apessos, hereby certify that on August 28, 2020, a true and correct copy of the foregoing Motion for Relief from the Automatic Stay, Proposed Order, and Notice of Hearing With Response Deadline was served through the Court's CM/ECF system, which will send email notification of the filing to the parties listed below.

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